



# COMMONWEALTH of VIRGINIA

Toll Free Assistance  
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(TTY or Voice)

Virginia Office for Protection and Advocacy  
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Suite 120  
Virginia Beach, Virginia 23462  
(757) 552-1148

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[www.vopa.state.va.us](http://www.vopa.state.va.us)

May 10, 2005

Patrick B. McDermott, Esq.  
McDermott, Roe & Walter  
471 McLaws Circle, Suite 2  
Williamsburg, Virginia 23185

RE: Oyster Point Academy/Phil Alexander

Dear Patrick:

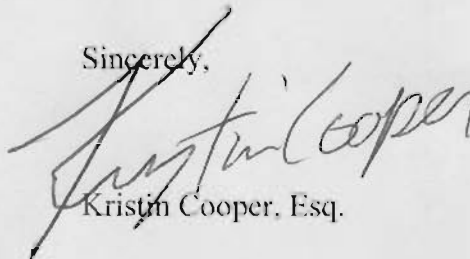
As a result of this Office's ongoing investigation of Oyster Point Academy, I find the following:

1. Oyster Point's restraint practices and documentation are inconsistent with the provisions and requirements of Title 12 *Virginia Administrative Code* § 35-115-110. Oyster Point must achieve full and verified compliance with the requirements of this regulation.
2. Oyster Point's restraint policies and procedures have not been properly submitted and approved in the manner required by Title 12 *Virginia Administrative Code* § 35-115-110.
3. Based on investigation, including review of documents provided by Oyster Point, certain restraint incidents have violated state and federal prohibitions against abuse or neglect and are inconsistent with Oyster Point's selected method for and procedures governing restraint.

4. While Oyster Point claims that current personnel have been trained in the *Therapeutic Options of Virginia (TOVA)* restraint method, Oyster Point has provided no documentation verifying that Ms. Alexander was duly certified to present such training.
5. Oyster Point's restraint documentation is inadequately and inappropriately completed.
6. Individualized Service Plans (ISP's) and Individualized Education Plans (IEP's) for several Oyster Point students fail to fully identify the students' disabilities and fail to adequately identify student behavioral needs.

In order that we can proceed toward effective and final resolution of this matter, please provide a recommended corrective action plan to fully address the above state deficiencies within fourteen (14) days from the date of this letter. If you decline to timely provide the requested corrective action plan, please provide within fourteen (14) days of the date of this letter an updated list of parents, guardians or authorized representatives of all Oyster Point students, including name, address and telephone number, to facilitate this Office's ongoing investigation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristin Cooper". The signature is written in dark ink and is positioned above the printed name.

Kristin Cooper, Esq.

# OYSTER POINT ACADEMY DAY SCHOOL & DAY TREATMENT PROGRAM CORRECTIVE ACTION PLAN

May 23, 2005

Prepared for the Virginia Office for Protection and Advocacy

ITEM #	DESCRIPTION OF NON-COMPLIANCE	ACTION TO BE TAKEN	ACTION TO BE TAKEN BY:	PLANNED DATE OF COMPLETION
1.	Oyster Point's restraint practices and documentation are inconsistent with the provisions and requirements of Title 12 <i>Virginia Administrative Code</i> # 35-115-110. Oyster Point must achieve full and verified compliance with the requirements of this regulation.	A) Oyster Point Academy (OPA) began using Therapeutic Options of Virginia (TOVA) in August 2004 as approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), the licensing agency for the Hampton Newport News Community Services Board (HNN-CSB) Day Treatment Program at OPA. All CSB and OPA staff members are trained in TOVA, and all new staff will also be trained in TOVA. The form for documentation of interventions and physical holds is attached (January 05). B) HNN-CSB will provide a medical director who will review restraints practices and documentation on an ongoing basis. C) CSB will request that the CSB LHRC review restraints practices and documentation. OPA will be under the CSB LHRC, seek admittance with another LHRC, or will form its' own.	A) Phil Alexander, OPA Dr. Kimberly Karanda, CSB Timp Hecht, CSB  B) Timp Hecht, CSB  C) Timp Hecht, CSB Dr. Kimberly Karanda, CSB Phil Alexander, OPA	A) Completed       B) September 1, 2005  C) September, 1, 2005
2.	Oyster Point's restraint policies and procedures have not been properly submitted and approved in the manner required by Title 12 <i>Virginia Administrative Code</i> # 35-115-110.	A) HNN-CSB will provide a medical director who will review restraints practices and documentation on an ongoing basis. B) CSB will request that the CSB LHRC review restraints practices and documentation. OPA will be under the CSB LHRC, seek admittance with another LHRC, or will form its' own LHRC.	A) Timp Hecht, CSB  B) Dr. Kimberly Karanda, CSB Timp Hecht, CSB Phil Alexander, OPA	A) September 1, 2005.  B) September 1, 2005
3.	Based on investigation, including review of documents provided by Oyster Point, certain restraint incidents have violated state and federal prohibitions against abuse and neglect	A) OPA reviewed the use of restraints and began using Therapeutic Options of Virginia (TOVA) as approved by DMHMRSAS in August 2004. All CSB and OPA staff members are trained in this method which utilizes functional assessment and	A) Phil Alexander, OPA Kimberly Karanda, CSB	A) Completed.

Owner, Oyster Point Academy:

Signature

Coordinator, Day Treatment Program:

Signature

# OYSTER POINT ACADEMY DAY SCHOOL & DAY TREATMENT PROGRAM CORRECTIVE ACTION PLAN

May 23, 2005

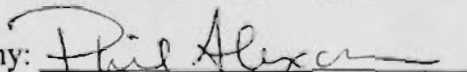
Prepared for the Virginia Office for Protection and Advocacy

	<p>and are inconsistent with Oyster Point's selected methods for and procedures governing restraint.</p>	<p>the use of individual interventions, with physical holds used only if the student is in imminent danger of harm to self or others.</p> <p>B) In August 2004 all staff began training in Functional Behavior Assessments and the development of Behavior Intervention Plans (BIP) to address individual behavior goals. The BIP is then incorporated into the IEP as approved by the IEP committee, and is reviewed yearly by the IEP committee, and weekly by the classroom team, consisting of the classroom teacher, OPA counselor and CSB counselor.</p> <p>C) The majority of the incident reports that were reviewed were generated prior to December 2004. In January 2005, the event report form was modified to reflect interventions tried before holds were used. See attached Event Report Form. Ongoing training will continue to occur in accordance with any recommendations from the LHRC.</p> <p>D) HNN-CSB will provide a medical director who will review restraints practices and documentation on an ongoing basis, and will request that the CSB LHRC review restraints practices and documentation. OPA will be under the CSB LHRC, seek admittance with another LHRC, or will form its' own. Recommendations by the LHRC will be followed.</p>	<p>B) Phil Alexander, OPA Dr. Kimberly Karanda, CSB Annikken Vittorini, OPA</p> <p>C) Phil Alexander, OPA</p> <p>D) Timp Hecht, CSB Phil Alexander, OPA</p>	<p>B) Completed.</p> <p>C) Completed.</p> <p>D) September 1, 2005</p>
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Page 1 of 2 pages.

ITEM #	DESCRIPTION OF NON-COMPLIANCE	ACTION TO BE TAKEN	ACTION TO BE TAKEN BY :	PLANNED DATE OF COMPLETION
	While Oyster Point claims that current	Ms. Alexander's TOVA certificate for	Phil Alexander, OPA	Completed.

Owner, Oyster Point Academy:

  
Signature

Coordinator, Day Treatment Program:

  
Signature

# OYSTER POINT ACADEMY DAY SCHOOL & DAY TREATMENT PROGRAM CORRECTIVE ACTION PLAN

May 23, 2005

Prepared for the Virginia Office for Protection and Advocacy

4.	personnel have been trained in the <i>Therapeutic Options of Virginia (TOVA)</i> restraint method, Oyster Point has provided no documentation verifying that Ms. Alexander was duly certified to present such training.	completing the TOVA Train The Trainer Class is attached.		
5.	Oyster Point Academy's restraint documentation is inadequately and inappropriately completed.	HNNCSB will provide restraint documentation training for all on site HNN-CSB and OPA staff according to existing regulations and recommendations of the HNN-CSB LHRC, to include interventions used prior to practicing manual holds. All documentation will be reviewed by Dr. Kimberly Karanda, the CSB medical director, and the LHRC to ensure adequate and appropriate documentation and compliance	Timp Hecht, CSB Dr. Kimberly Karanda, CSB	September 1, 2005
6.	Individualized Service Plans (ISP's) and Individualized Education Plans (IEP's) for several Oyster Point students fail to fully identify student's disabilities and fail to adequately identify student behavioral needs.	A) In August 2004 all staff began training in Functional Behavior Assessments and the development of Behavior Intervention Plans (BIP) to address individual behavior goals. The BIP is then incorporated into the IEP as approved by the IEP committee, and is reviewed yearly by the IEP committee, and monthly by the classroom team, consisting of the classroom teacher, OPA counselor and CSB counselor. OPA will add any disability diagnosis contained in eligibility documents to the Present Level of Performance for all	A) Phil Alexander, OPA Dr. Kimberly Karanda, CSB Annikken Vittorini, OPA	A) Completed. Policies and procedures in place.

Owner, Oyster Point Academy:

Signature

Coordinator, Day Treatment Program:

Signature

# OYSTER POINT ACADEMY DAY SCHOOL & DAY TREATMENT PROGRAM

## CORRECTIVE ACTION PLAN

May 23, 2005

Prepared for the Virginia Office for Protection and Advocacy

		<p>students through the IEP committee process when OPA participates as IEP committee members. Copies of redacted completed Behavioral Intervention Plans (BIPs) attached. Draft copies of BIPs pending finally approval at IEP meetings scheduled to occur between now and the end of the school year, are also included.</p> <p>B) Additionally the ISP formulation process begins with a day treatment intake completed by an LCSW or LCP, and includes DSM-IV TR diagnosis contained in the students clinical chart. Consultation with OPA staff, classroom observation, and the functional assessment data are also used in the development of the ISP. ISPs are reviewed quarterly with the student, parent, and CSB counselor. Ongoing review of ISP goals occurs during weekly OPA/CSB team meetings.</p>	<p>B) DR. Kimberly Karanda, CSB</p>	<p>B) Completed.</p>
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Page 2 of 2 pages.

Owner, Oyster Point Academy:

  
Signature

Coordinator, Day Treatment Program:

  
Signature



**HANCOCK, DANIEL, JOHNSON & NAGLE, P.C.**

**A T T O R N E Y S   A T   L A W**

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October 17, 2005

Kristin Cooper, Esquire  
COMMONWEALTH OF VIRGINIA  
VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY  
287 Independence Boulevard, Suite 120  
Virginia Beach, Virginia 23462

**RE: Oyster Point Academy**

Dear Ms. Cooper:

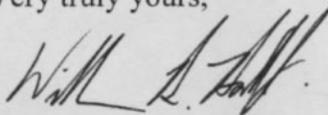
I write as counsel to and on behalf of Oyster Point Academy. In May of 2005, you wrote to express concern regarding certain matters at Oyster Point Academy. Oyster Point Academy is not legally subject to the provisions of §35-115-110, et. seq. of Title 12 of the Virginia Administrative Code. However, as we discussed, Oyster Point Academy is dedicated to honoring and protecting the rights of its students and has voluntarily committed to meeting the standards set forth in the Virginia Human Rights Regulations.

Further, while Oyster Point Academy is not in agreement with any assertions that it has failed to comply with applicable standards, Oyster Point Academy is steadfastly devoted to providing the highest quality educational opportunities, while preserving and protecting the rights and safety of students. Accordingly, Oyster Point Academy submitted a plan to provide the Virginia Office for Protection and Advocacy with additional assurance of its commitment.

Oyster Point Academy appreciates this opportunity to set forth its position and to reiterate its commitment to its students, their parents and to providing quality education.

With best regards, I remain,

Very truly yours,



William H. Hall, Jr.

WHHjr/br

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